

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of State Parks
Honolulu, Hawaii 96813

February 13, 2015

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

O'ahu

Issuance of a Revocable Permit to Discovering Hidden Hawai'i Tours, Inc., for
Use of the Nutridge House and Grounds, for Commercial and Non-Profit Event and
Commercial Tour Purposes, Pu'u 'Ualaka'a State Wayside, Opu, Makiki, O'ahu,
Tax Map Key: (1) 2-5-019:004 (por.)

REQUEST:

Approval to issue a Revocable Permit to Discovering Hidden Hawai'i Tours, Inc.,
a Hawai'i Corporation for eleven (11) months, effective February 1, 2015.

APPLICANT:

Discovering Hidden Hawai'i Tours, Inc., a Hawai'i Corporation.

LEGAL REFERENCE:

Sections 171-55 and other applicable sections of Chapter 171, Hawaii Revised
Statutes, as amended.

LOCATION:

Portion of Government lands of Opu, Makiki, O'ahu, identified by Tax Map Key:
(1) 2-5-019:004 (por.), as shown on the attached map labeled Exhibit A.

AREA:

22 acres, more or less, subject to confirmation by the Department of Accounting
and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
County of Honolulu CZO: P-1

ITEM E-1

TRUST LAND STATUS:

Section 5(a) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES ___

NO X

CURRENT USE STATUS:

Encumbered by Governor's Executive Order 4314 setting aside land for state park purposes to be under the control and management of the State of Hawai'i, Department of Land and Natural Resources (Department), Division of State Parks (State Parks).

CHARACTER OF USE:

For the purpose of operating a venue for commercial events including luaus and other similar events, tours and special, small scale events and non-profit and community use purposes.

MONTHLY RENTAL:

\$4,730 per month minimum base rent versus eight (8) percent of gross revenues, whichever is greater.

COLLATERAL SECURITY DEPOSIT:

\$4,730.00.

COMMENCEMENT DATE:

February 1, 2015 or as otherwise determined by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Notification Exemption attached as Exhibit D.

REMARKS:

On November 8, 2013 under agenda Item E-1, the Board approved the issuance of a revocable permit (RP) to Discover Hawai'i Tours, Inc. (DHT). The revocable permit covered a 22 acre property at Pu'u 'Ualaka'a State Wayside and included a home on the National Register of Historic Places known as the Nutridge Estate (the house and grounds hereinafter "Nutridge").

DHT was registered with the Department of Commerce and Consumer Affairs; however, after consultation with the Department of the Attorney General and DHT's representative regarding the proper entity to become the permit holder, the revocable permit was executed with its parent entity, Discovering Hidden Hawai'i Tours, Inc. The permit commenced February 1, 2014.

Under Section 171-55 HRS, however, the permit may not exceed more than one year in term and expired on January 31, 2015. This submittal seeks approval of a new revocable permit issued to Discovering Hidden Hawai'i Tours, Inc. ("Discover") commencing February 1, 2015 under the terms described in this submittal.

State Parks increasingly relies on special fund revenue (i.e. revenue generated from permits, leases and concessions) to offset declining general fund taxpayer revenue. This project is an example of a public/private partnership which generates critically needed new revenue for State Parks. Prior to Discover's occupancy, Nutridge was used for residential purposes at below market rents of \$600 per month. The property now generates in excess of \$5,000 per month and is more publically accessible.

In 2013 when the matter of the original RP was brought to the Board, it was thought that commercial tours and small scale, high end corporate events would be profitable. As a new source of revenue, this project was initiated on a trial basis to confirm whether the concept was viable.

Due to the relatively short term nature of the RP, the rainy Tantalus climate and other factors, that model did not result in enough activity for Discover to profitably operate Nutridge. In response, starting last fall, commercial luau events were offered and a stage was placed on the property. Discover currently operates two luau events per week under the name "The Big Kahuna Luau" and sells tickets through its website www.bigkahunaluau.com. Discover believes that luau events would result in the most practical use of the property and has reportedly generated nearly \$260,000 in gross receipts in the last four months of 2014 as a result.

Under the previous RP, Discover was authorized to conduct tours and small scale events of no greater than 60 persons. In addition, a maximum of four (4) events per month may not exceed 250 persons per month. In total, the RP allowed up to 2,560 visitors per month. This limit included up to two (2) non-profit or community events which could be booked at a nominal rate. These limits were, in part, due to the property's limited infrastructure capabilities for water, wastewater and parking. In addition, no permanent improvements were authorized under the RP without authorization. To accommodate additional restroom demand, Discover has used portable trailer bathrooms to serve patrons and utilizes its own electric generator to provide power for luau events.

In November of 2014, State Parks received a proposal from Discover to continue the term of the RP which sought certain modifications to the RP. A copy of the proposal is attached as Exhibit C. Among the changes was a request to increase the occupancy of the events from 60 per day to 175 per day which would imply a total of 5, 250 visitors per month, doubling the current limit.

Another change requested involves the sale of alcohol. Under the terms of the previous RP, guests and invitees may use or possess alcohol on the premises. It is unclear as to whether the language of the permit would authorize the sale of alcohol at Nutridge which presented a challenge for Discover to obtain appropriate licenses. Discover requests the authorization to sell alcohol in addition to the possession and use of alcohol to augment its revenue. State Parks is in support of this request as it believes this was within the spirit of the Board's previous authorization.

DISCUSSION:

The intent of this new project is to create a new, public/private partnership which supports the Department's mission of both enhancing and protecting public lands. Nutridge is a new opportunity to offer visitors and Kama'āina the opportunity to experience Pu'u 'Ualaka'a in a way not previously possible. Through this learning process, much has been revealed about what may be economically feasible - but that process is not yet complete. Should the luau event model become successful, State Parks plans to offer the property for a longer term disposition on a competitive basis. If it is determined not to be feasible, options would be re-assessed. In the interim, and until infrastructure needs can be better assessed, State Parks recommends maintaining visitation at the current level of approximately 2,600 persons per month.

Currently, Discover is offering two luau events on Tuesdays and Fridays of each week. To achieve the present level of visitation and to address the request to increase the event limit from 60 persons daily to 175 per luau event, staff proposes a maximum of three luau events per week rather than the seven events proposed. This would allow a 50 percent increase in luau events and a total of approximately 2,100 luau patrons. This would also allow additional capacity for the non-profit and community users to maintain a limit of 2,600 per month.

Historically, Nutridge has been used for certain community and non-profit events. The historic nature of the home and the beauty of the grounds offer a welcome setting for organizations which might not have the means to rent similar private venues. Allowing Discover to charge a nominal fee for the use of water and portable toilets would offset direct its direct costs while making the use of Nutridge affordable for non-profit users. A \$250.00 per event fee would cover

direct costs for portable toilets and water. In Discover's proposal (Exhibit C), portable toilets were listed at \$200.00 and State Parks recommends a monthly amount of \$200.00 to Discover to cover water costs.

State Parks recommends certain provisions for a new revocable permit (subject to review and approval by the Department of the Attorney General) as compared to the previous RP. These include the following:

1. Permittee shall furnish and install, using a licensed plumber, a water sub-meter to the Premises and provide monthly usage readings to State Parks at the end of each calendar month. Permittee shall pay as additional rent, an amount of \$200.00 per month to offset water costs. If usage levels are determined to be significantly higher than anticipated, the extra amount may be adjusted as determined by the Chairperson.
2. Discover has indicated difficulty in obtaining fire insurance for the structures at Nutridge. It is a normal requirement of holders of revocable permits to obtain fire insurance coverage, especially since the permittee has exclusive use of the structures and the structures are used in connection with permittee's operation. State Parks permittee's and lessees with similar improvements provide fire insurance. If evidence of the required insurance coverage is not received by the Division of State Parks by March 31, 2015, the permit shall terminate without further notice.
3. Alcohol may be sold, used and possessed on the premises provided all applicable governmental regulations are followed and Discover provides evidence of adequate and appropriate insurance coverage prior to signing the revocable permit.
4. Discover may hold up to three (3) events per week not to exceed 175 persons for each event.
5. There shall be to two (2) non-profit, community events, made available to non-profit and community groups, not exceeding 250 persons per event for each month. If no non-profit, community events are booked for a given calendar month, Discover may not hold additional events in place of any un-booked, non-profit, community events, except that if at least one non-profit, community event is not booked within a prior three week period, Discover may hold an additional event not to exceed 175 persons during that three week period.
6. Discover shall disclose, in writing, and in advance, a schedule of its monthly events. The luau events shall be on fixed day(s) of the week. Changes to the fixed days shall be coordinated in advance with State Parks.
7. Discover may charge not more than \$250.00 per one day event for non-profit, community events as a nominal fee. Discover and the event holder may negotiate for additional services at mutually agreed upon pricing, if desired. The nominal fee receipts may be deducted from the gross revenue

for the purposes of calculating percentage rent.

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RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Discovering Hidden Hawai'i Tours, Inc. covering the subject area for commercial and non-profit event and commercial tour purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - (a) The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - (b) Review and approval by the Department of the Attorney General; and,
 - (c) Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize Discover Hidden Hawai'i Tours, Inc., to sell alcohol on the premises and for its patrons to use and possess alcohol;
4. Require that if evidence of fire insurance is not provided by March 31, 2015, the permit shall terminate without further notice; and,
5. Authorize the Chairperson to negotiate any other specific terms necessary to effectuate the revocable permit.

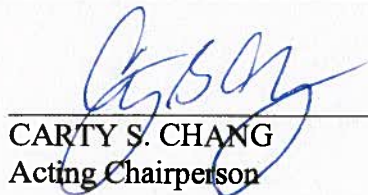
Respectfully Submitted,



DANIEL S. QUINN

Administrator, Division of State Parks

APPROVED FOR SUBMITTAL:


CARTY S. CHANG
Acting Chairperson

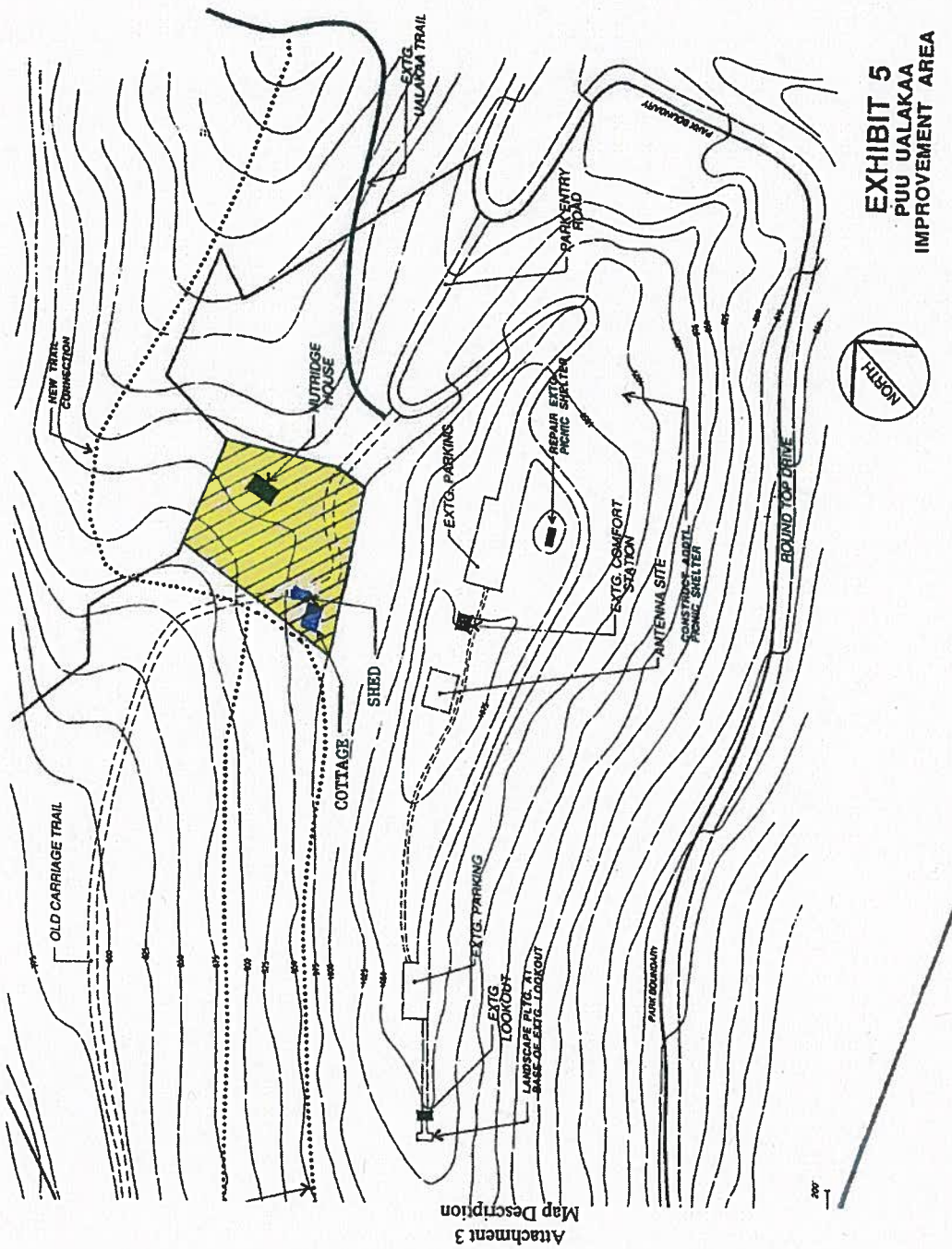


EXHIBIT B- Photos of the Nutridge House and Grounds





EXHIBIT C – Discover Hidden Hawai‘i Tours, Inc. Proposal**Community Events**

Below is a table that details the costs associated with hosting an event at Nutridge. DHT has listed what would typically be charged for events, and a column for community or non-profit events.

ITEM	LIST PRICE	COMMUNITY EVENT PRICE
Bathroom Facilities	1200.00	200.00
Generator	500.00	100.00
Water	140.00	140.00
Tent (Main)	3000.00	500.00
Tent (Back)	3000.00	500.00
Site Personnel	600.00	600.00
Security	600.00	600.00
Parking Attendants (2)	160.00	160.00
**Optional Tables/Chairs (200 chairs/25 tables)	1050.00	400.00
**Optional Stage and Lighting Rental	3000.00	500.00
Sub Total	\$13,250.00	\$3,700.00
State Usage Fee (8%)	\$1,060.00	\$296.00
Grand Total	\$14,310.00	\$3,996.00

Alcohol

Under the current agreement with DLNR DHT is permitted to possess and dispense alcoholic beverages. While DHT sold tickets in place of selling alcoholic beverages, counsel recommended that DHT stop the activity. The sale of tickets did not necessarily resolve the ambiguity in the language of the agreement. Currently, DHT is providing complimentary beverages to its guests. This is an expense that could easily become a revenue item.

In our effort to comply with any laws and regulations regarding alcoholic beverages we have engaged caterers who possess proper liquor licensing for all events. Additionally, DHT has begun the process of securing special event liquor licenses.

We are requesting that the agreement be revised to reflect that it is permissible to sell alcoholic beverages at Nutridge. DHT believes that the language will remove any statutory uncertainty over the sale of alcohol, whether it is via the sale of tickets or direct sales to guests.

Capacity

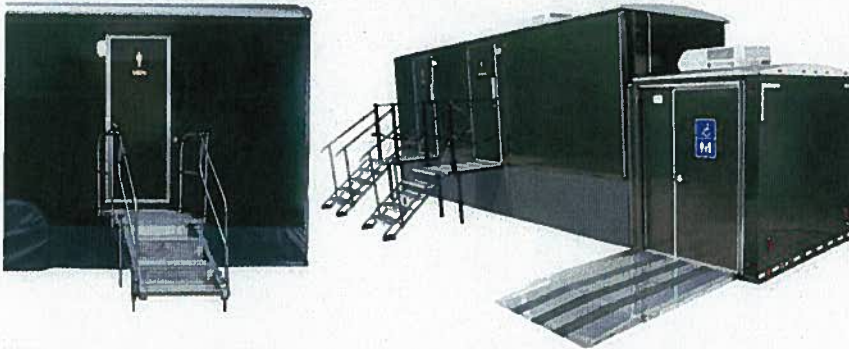
Per the current agreement DHT is permitted sixty (60) guests, 6-days per week, and two hundred and fifty (250) guests, once per week. The limits were based on the impact on the property, and lack of sufficient facilities to adequately support the increased traffic.

Since DHT began its lease of Nutridge several improvements have been made to support an increase in the permitted number of guests.

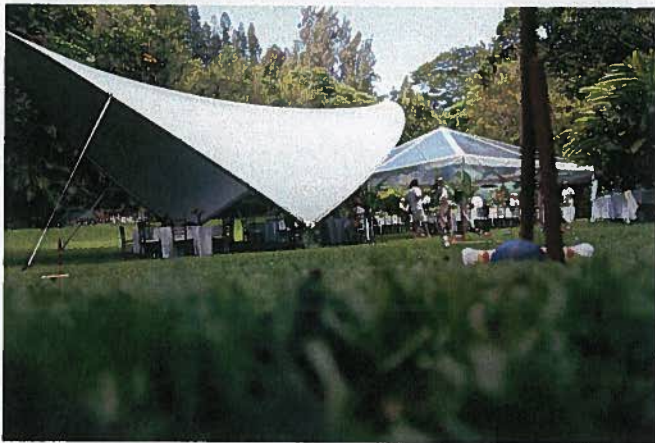
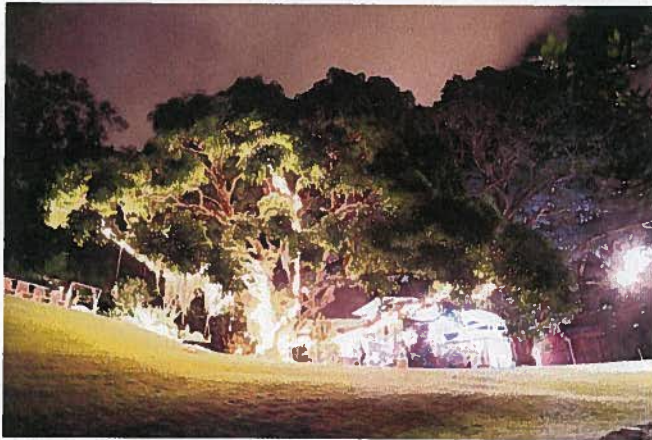
1. An old-style kamaaina driveway was installed to replace the loose gravel driveway. This not only improved the appearance of the property, but it also provides a much safer walking environment.



2. Kohler mobile facilities have been installed to provide visitors access to high-quality, air conditioned restrooms. Additionally, an ADA compliant restroom is included with the unit.



2. **Hospitality areas.** DHT has installed several areas to provide areas of shelter and hospitality for guests. This allows DHT to provide opportunities to host a variety of events including educational, cultural, and entertainment.



DHT is requesting that the daily capacity be increased to one-hundred and seventy-five (175) guests per day. DHT believes that the Nutridge property can now support the increased numbers. As the public has become more aware of the property so have the requests to visit and utilize it. An increase in the capacity will allow more people to enjoy the view and history of Nutridge.

Parking

DHT has been transporting guests to the luau, and this is working well. However, the lack of parking options prohibits local residents from attending the luau and any other events that could be hosted at Nutridge. DHT is requesting that it be permitted to utilize the area outside the park gate that is currently chained for parking.

Fire Insurance

Currently DHT carries general liability to cover the premises, equipment and structures. DHT is unable to obtain fire insurance for the structures because DHT is not the owner of the property, and structures that existed on the property prior to their occupancy.

Exhibit D – Exemption Notification

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

CARTY S. CHANG
Acting Chairperson
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCES MANAGEMENT

DEPUTY CHAIR

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DEPUTY CHAIRMAN DIRECTOR - WATER

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ENFORCEMENT
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAPOLAHOWE ISLAND RESERVE COMMISSION
LAND
STATE POLICE

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Issuance of a Revocable Permit to Discovering Hidden Hawai'i Tours, Inc., for Use of the Nutridge House and Grounds, for Commercial and Non-Profit Event and Commercial Tour Purposes, Pu'u 'Ualaka'a State Wayside, Opu, Makiki, O'ahu, Tax Map Key: (1) 2-5-019:004 (por.)

Project / Reference No.: SP0522

Project Location: Pu'u 'Ualaka'a State Wayside, Portion of Government lands of Opu, Makiki, O'ahu, identified by Tax Map Key: (1) 2-5-019:004 (por.).

Project Description: Issue Revocable Permit to Discovering Hidden Hawai'i Tours, Inc.

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1), the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 which exempts, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing".
The revocable permit presented in this submittal is for existing uses previously authorized by the Board.

Consulted Parties: DLNR - Division of Forestry and Wildlife/DOBOR/OCCL

Recommendation: It is recommended that the Board find that this action will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.


CARTY S. CHANG
Acting Chairperson